

OCT 17 2006

Attorney Docket No. 397037

REMARKS

Claims 1-7, 14-21, 34-36 and 39-50 are pending in the application. Claims 19, and 40-43 are currently amended.

Claim Amendments

Claim 19 has been amended back to recite antioxidants. Claim 40 has been amended to correct an antecedent problem necessitated by previous amendment of Claim 39. Claim 41-42 have been amended to clarify that the ratio is a molar ratio, as is consistent with the first paragraph of the detailed description. Claim 43 to correct a typographical error.

Double Patenting

Claims 1-7, 14-21, 34-36 and 39-50 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-25 of co-pending Application No. 10/247,161, now U.S. Patent No. 7,060,696. Applicant is submitting a Terminal Disclaimer along with this Response. Withdrawal of this obviousness-type double patenting rejection is respectfully requested.

Claim Rejections – 35 U.S.C. 112

Claim 19 is rejected for nonenablement. Applicant has amended Claim 19 back to recite just the antioxidant instead of the means. Withdrawal of this enablement rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §102

Claims 1 and 2 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kazimierczak and Maslinski ("Kazimierczak"). Examiner maintains that Kazimierczak discloses a zinc/hydroxyquinoline complex in a 1:1 ratio and therefore anticipates the present claims. Applicant respectfully disagrees. Kazimierczak describes use of a zinc/hydroxyquinoline complex to inhibit histamine release by mast cells induced by a compound 48/80. However, the concentration of either zinc or hydroxyquinoline in Kazimierczak is much lower than the concentration of zinc or hydroxyquinoline in the claimed composition. For instance, Kazimierczak uses zinc chloride solution at 1 mM concentration (See lines 38-42 of Col. 1, page 321), which translates to about 0.135

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grams of zinc chloride in approximately 1000 grams of solution. In other words, the composition disclosed in Kazimierzak contains zinc chloride that is less than one percent by weight of the composition. By contrast, Claims 1 and 2 recite zinc chloride of at least 5 percent by weight of the composition. Thus, the instant Claims 1 and 2 are not anticipated by Kazimierzak because not all claim limitations are described in the reference. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. 102.

The amended claims are patentable for the above reasons. This response is being filed with the \$395 fee required for the Request for Continued Examination and the \$510 fee for the Petition for Extension of Time. Applicant believes that no additional fees are due at this time. However, if any additional fees are due, the Commissioner is authorized to charge them to deposit account No. 12-0600.

Respectfully submitted,

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